

The July 11, 2007 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Chairman Susanne Murphy called the meeting to order at 7:00 P.M. with the following members present:

Susanne Murphy, Chairman  
Ted C. Case, Vice Chairman  
Daniel J. Cunningham, Jr., Clerk  
Patrick T. Devine, Member  
Craig Hiltz, Member

James M. Stanton, Associate Member  
James S. Decelle, Associate Member

**7:00 p.m. – Wan Sum Ng – Case #12-07 (cont'd from 6/13/07) (Case, Devine, Hiltz, Stanton)**

Ms. Murphy recused herself from this hearing. Mr. Case acted as Chairman.

Mr. Case read the public hearing notice for Wan Sum Ng, Case #12-07, with respect to property located at 920 Main St., Walpole and shown on the Assessors Map as Lot No. 25-241, General Business Zone. (CBD)

The application is for:

A Special Permit under Section 3-G of the Zoning Bylaws to allow an expansion of a non-conforming building; and

A Variance under Section 4-B(j) to allow parking spaces within the front 25-foot setback from Main Street in connection with the reconstruction, extension or structural change of the existing building; and

A Determination under 5-A and/or Finding under M.G.L. Ch. 40A.s.6 that the requirement of the uses will be served by a lesser number of parking spaces, together with such other Determinations, Findings, Special Permits or Variances as the Zoning Board determines applicable to allow the proposed undertaking as shown on the aforesaid plan, as may be amended.

Engineer Frank Bicchieri, Hancock Associate, represented the applicant and explained that the applicant wishes to renovate the rear and front of the building which will square it off. The required rear set back is 20 feet with 1.1 feet existing. They are asking to expand the non-conformity. They are proposing one-way traffic; landscaping next to the sidewalk and along the 5-8 foot sidewalk. There would be two separate entrances for the two (2) retail businesses.

Mr. Case was concerned about the rear of the property, which is now 1.1 feet between the existing building and lot line. The proposed addition would lengthen the 1.1 set back another 45 feet. His concern is that there would no longer be an entrance into that back yard area between

the buildings, especially for fire apparatus. However, Mr. Case has no problem with the parking and the proposed use.

Robert Schiavarno informed the Board that he has spoken to the Fire Chief who said he has no problem with the project, and that he has this in writing, and will submit a copy to the Board.

Mr. Case asked if one of the tenants could be a Dunkin Donuts, because there could not be a take out drive-thru type of business at that location. The applicant said it would not be a Dunkin Donuts; he is expecting one of the businesses to be a cell phone store. The Variance would be for the number of spaces in the parking lot.

Mr. Case asked if there was a possibility of the Blue Orchid restaurant being located on this site. Mr. Bicchieri and the applicant said that if it met the Board's approval, that was a possibility.

Mr. Hiltz pointed out that there could be no outside dining or entertainment without additional Special Permits.

The question of parking on-site and off-site were discussed.

Mr. Case asked if there were any comments from the public; there being none he continued the hearing to August 8, 2007 at 7:30 p.m. for comments from the various Boards on the new plans.

Mario Schiavarno explained that the extension of the building in the rear was to accommodate additional restrooms in order to meet code requirements.

**7:30 p.m. – Rubin-Pachulski Properties (Walpole Mall) – Case #14-07**

Ms. Murphy read the public hearing notice for Rubin-Pachulski Properties LLC, (Walpole Mall), Case #14-07, with respect to property located at 50, 58-60 and 70-100 Boston Providence Highway, E. Walpole and shown on the Assessors Map as Lot No. 21-10, 29-14, 29-15, Highway Business Zone.

The application is for:

Special Permits under Section 3-B(4)(cc) to allow Retail Sales and Services greater than 20,000 s.f. in an HB District as shown on the plan entitled: Redevelopment of "The Mall at Walpole", 50, 58-60 and 70-100 Boston Providence Highway, Walpole, Massachusetts, dated May 28, 2007, drawn by Norwood Engineering, Co., Inc., 1410 Route One, Norwood, MA 02062, as may be amended/reduced (hereinafter referred to as "Plan"); and Section 3-B(4)(q)(ii) to allow a drive-in or stand for the dispensing of food, beverages or goods from inside a building to persons standing or seated outside as shown on said Plan, as may be amended; and

A Determination under Section 3-G and/or Finding under M.G.L. Ch. 40A, Section 6, that the reconstruction, extension or structural change of the existing Mall facility as shown on the aforesaid Plan which maintains the existing limits of pavement adjacent to the residential zoned property is not substantially more detrimental to the neighborhood, all as shown on said Plan, as may be amended; **or**

A Variance from Section 4-D to allow the existing limits of pavement which are less than 40 feet from a Residential District to remain in connection with the reconstruction, extension or

structural change of the existing Mall facility as shown on the aforesaid Plan, if determined applicable, all as shown on said Plan, as may be amended; and

A Variance from Section 4-B to allow parking spaces within the front 50-foot setback from Route 1 in connection with the reconstruction, extension or structural change of the existing Mall facility as shown on the aforesaid Plan, as may be amended; and

A Determination under Section 5-A that the requirements of the uses will be served by a lesser number of parking spaces than required as shown on said Plan, as may be amended; **or**

A Variance from Section 5 to allow a lesser number of parking spaces than required, as shown on said Plan, as may be amended; and

A Variance from Section 4-D to allow an access/egress radius to be within the 40-foot buffer from a Residential District in connection with the reconstruction, extension or structural change of the existing Mall facility as shown on the aforesaid Plan, if determined applicable all as shown on said Plan, as may be amended.

Together with such other Determinations, Findings, Special Permits or Variances as the Zoning Board determines applicable to allow the proposed undertaking as shown on the aforesaid Plan, as may be amended.

Attorney Phil Macchi, II, represented the applicant and submitted the site plan renditions and Memorandum in Support, which explained in detail all of their requests within this hearing. He informed the Board that they have had an abutters meeting and have tried to take their comments into consideration. He introduced the members of the applicant's team.

Rich Costanza purchased the mall a year ago, and wishes to revitalize the property to compete with local malls in Dedham, Westwood, Foxboro, etc. He expects the cost for renovations to be approximately \$25M, which will include, buildings, acquisition of land, expansion of the parking lot and new lighting.

Barry Cortez, BKAR Architects, explained his company has a lot of experience in retail and shopping center development. They are upgrading the entire elevation, new entrance, new storefronts to be bright, fresh and exciting to draw new tenants and bring the mall into the same realm as Gillette Stadium and Westwood Station.

Don Meyers, Norwood Engineering, explained that all of the work to be done is approximately 30,000 s.f., which includes an addition on the back, two additions out in front and removal of two Lexus buildings. They wish to move the entrance farther back on Coney St. bringing the entering vehicles in front of Kohl's, which will be a much traffic flow. The second entrance on Ft. 1 will be a much better entrance into the expanded mall. Taco Bell will remain. The Bank kiosk will be removed and a new bank built on the expanded area. A new restaurant will also be built in that area. Protection for the abutters includes: 1) complete inventory of plantings that are currently in the back. Some plants will be culled and new plants installed; and 2) a no truck zone will be established with signage to protect the new abutters from noise. The new Coney St. entrance: the entrance will encroach slightly onto the 40-foot buffer so that trucks can maneuver themselves onto the property. The Variance request is for parking the front of the property. The

applicant is asking for a continuation of the existing parking use within the 50-foot buffer. They will keep a 5-foot buffer and will not be creating a road within the buffer, it will be used for parking. The Zoning Enforcement Officer said he would allow them to use a lower ratio for parking considering the retail use.

Attorney Macchi explained that all of the new would pavement meet the zoning requirements. Under 3-G the applicant is requesting a pre-existing nonconforming situation.

Mr. Case that trucks would be going in and out the same way according to the plan, however, they may not actually do that. Because the project is adding new buildings, which equal 13,000 s.f. in the front, 4,000 s.f. of access is being eliminated. Therefore, vehicles will be exiting right onto Rt. 1.

Gary McNaughton, Traffic Engineer, referred to the Lexus Dealership, which has three (3) curb cuts which will be made into one (1). Most of the traffic is expected to use two exits onto Rt. 1 and the exit on the Lexus lot is not expected to be used by the majority of traffic. Traffic will primarily go into the entrance to use the small number of retails in that area.

Attorney Macchi explained that the MacDonald's Corporation leases to the franchisee. The applicant is working with them regarding the possibility of rehabbing their building, which depends on whether or not the franchisee wants to get involved. It would cost them \$500,000 for their portion of the potential parking project. Discussion ensued regarding traffic.

Mr. Cunningham would not approve the new traffic plan that would channel incoming vehicles in front of the stores. Mr. McNaughton explained the reasoning behind this new entrance plan. Presently traffic flows to the right or left when entering the mall, which is a safety problem. An entrance from Rt. 1 is also a safety issue. Discussion ensued regarding vehicular traffic. Mr. Hiltz suggested making the entrance in line with the side street, which would create a 4-way intersection, which would be easier to manage. Mr. Case suggested putting an arrow on the Rt. 1 traffic light allowing vehicles to turn right or left from Coney St. Mr. McNaughton said the applicant could work with Mass. Highway on that. Attorney Macchi explained that this team has met with the Town Engineering and Town Planner, and this is the resulting plan.

Joseph Ingoldsby, landscaper, explained the plan for the landscaping. Dead and diseased trees and bushes will be removed and replaced with evergreens, flowering dogwood, mountain laurel and other plants that can survive New England weather and provide screening for abutters. He submitted a copy of the proposed landscaping.

Ms. Murphy asked if the project includes any wetlands. Attorney Macchi explained that the property is in the HB Zone and not in the watershed district. They still have to meet with the Conservation Commission and the Planning Board; then, meet with the State agencies. The project includes a new bank, drug store, and restaurant. The restaurant would be on Coney St.

Mr. Meyers submitted responses to the various Board comments.

Ms. Murphy asked for comments from the public.

Jeff Pernell, Sandra Road, voiced his concern over the entrance on Coney St. and the resulting traffic congestion; the traffic flow in front of store entrances; and the safety of pedestrians. The entrance would increase the difficulty of the residents of Sandra Road trying to get out onto Coney St. Furthermore, Seimen's has expanded which creates a larger queue during the rush hours. Mr. Pernell suggested a traffic signal be installed at the new entrance.

Attorney Macchi commented that the Board of Selectmen would have to research the traffic light issue, and if they decided to pursue it, they would request the applicant to do a study on behalf of the Town. Then, Walpole Police and Fire Departments would have to review the issue and then Mass. Highway would have to do a study. After those approvals, it would go back before the Town to work on the sequencing.

Arthur Santon, Norwood, asked what is to prevent the delivery trucks from leaving the site behind the abutting properties. He was also concerned about headlights of employees and customers shining into his property at night.

Mr. Meyer said there would be signage and education for the drivers. There would be a stockade type fence to keep headlights from shining into abutting property. He submitted a parking plan.

Paul Derosa, Rustic Rd., said that the Mall does a good job of monitoring the trucks now.

Ms. Murphy read the comments from Officer Warren Goodwin, the Board of Health, Deputy Fire Chief Laracy, the Sewer and Water Commission, and the Town Planner into the record.

Ms. Murphy asked if there were any further comments, there being none, the hearing was closed.

**8:30 p.m. – REI Properties LLC – Case #09-07 (cont'd from 5/16 and 5/30/07) (all present)**

Ms. Murphy read the public hearing notice for REI Properties LLC, Case #09-07, with respect to property located at 240-242 Plimpton Street, Walpole and shown on the Assessors Map as Lot No. 18-193, Zoning District GR, Flood Plain.

The application is for:

A Special Permit under Section 3-B(3)(d) of the Zoning Bylaws to allow a 10-unit multi-family project to be connected to public sewer; and

A determination under Section 4-D(9) that a modified buffer is adequate.

Richard Merrikin, Merrikin Engineering, presented the application for 10 units, i.e., two 2-family units and two 3-family units. There would be 34 parking spaces. The Conservation Commission was concerned about the retention basin, so he has compacted it. They will install infiltration up gradient; roof infiltration systems; large underground infiltration systems under the cul de sac. Therefore just about no water comes out of the project into the brook. They will install a sewer main and then vegetate the area. The Conservation Commission has requested they put a trail system for the residents over that area. The applicant is asking for the Board to determine that the buffer is sufficient for the abutters. There would be 10-foot patios for the units and grass behind them. They anticipate leaving the heavy wooded areas behind the buildings.

Attorney Jon Rockwood submitted a Memo of Support; discussion ensued: the project is 40% smaller than the original project; it is a residential area with 10 new homes that will be geared toward empty nesters; and the GR Zone anticipates multi-family use.

Mr. Merrikin explained that a fence is proposed and two rows of trees where the lawn is now for the abutter. They have talked to some of the neighbors and it does not make sense to cut down the existing brush just to replant it. They are prepared to do some fencing for the new abutter. The buildings will have clapboard-like shingles.

**Mr. Case requested a copy of the architectural drawings to see the appearance of the buildings. Mr. Merrikin said he would supply some for the Board.**

Ms. Murphy asked if there were any comments from the public.

Gloria Franz, 249 Plimpton St., said that this plan is pretty much the same as the last plan and that she still objects to it because most of the houses on the street are historic; the abutters will be looking at the side of a building; it will be very close to the street, other condos have been set farther back; light pollution is going to be an issue; modern condos will look strange on that street.

Charlie Carr, 236 Plimpton St., asked what type of trees are going to be planted and how will that be enforced. He would like to see a more concrete plan for the landscaping. He asked if trees would be planted along the street.

Mr. Merrikin informed him that the traffic report recommends nothing tall be planted in front for vehicular safety.

Gary Cieplik, 224 Plimpton St., asked how the plantings would be enforced.

Mr. Merrikin said that Mr. Cieplik prefers arborvitae type hedge, which would be fine as long as it is mixed with other types of plants as well. Ms. Murphy suggested it be a condition that the Board go back and review the plantings and screening when completed.

Ann Belliveau, 473 Main St., voiced her concern about cars coming down from Main St., going onto Plimpton St. cannot see the cars going into the new driveway.

Jean Putnam, 295 Plimpton St., said that the two-family house is actually one home with three people living there. This development would potentially add up to thirty people and she does not see how that is within the character of the neighborhood. There are no sidewalks on the road. She does not believe it is safe to add thirty more people to that area.

John Labold, 254 Plimpton St., said he would prefer a stockade fence. Mr. Merrikin said the would stake out the area for the fence and work with the two neighbors in deciding what type of fence is preferred.

Ms. Murphy read the comments from the Police, Fire, and Engineering Departments. The hearing was continued to August 8, 2007 at 8:30 p.m.

**DISCUSSION:**

**Blades Realty LLC – Case #07-07 – Executive Session**

A motion was made by Mr. Case, seconded by Mr. Cunningham, to go into Executive Session to discuss litigation.

The vote was **5-0-0 in favor**. The meeting will go back into regular session to adjourn.

There being no further business, the meeting was closed at 12:00 a.m.

Daniel J. Cunningham  
Clerk

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Minutes were approved on September 19, 2007.